

IN RE: DANIEL THOMPSON, ) OEIG Case #16-00712

- [Sentence related to unfounded allegations redacted.]<sup>1</sup>
- Mr. Thompson works on his secondary employment, a lawn care business, while at his IDOT office;
- [Sentence related to unfounded allegations redacted.]; and
- [Sentence related to unfounded allegations redacted.]<sup>2</sup>

## II. BACKGROUND

Daniel Thompson is a Vehicle Inspection Unit Manager in the IDOT Bureau of Investigations and Compliance. He has held that position since 2010. Mr. Thompson's duties include supervising the IDOT program responsible for conducting scheduled annual inspections and unscheduled inspections of school buses throughout the entire State. Under his supervision, Vehicle Compliance Inspectors make unscheduled visits to school bus lots throughout the State and inspect buses for compliance with the Illinois Vehicle Code (Code). Mr. Thompson's duties also require him to provide letter rulings on whether new inventions or non-standard equipment can be installed on a school bus in compliance with the Code.

[This paragraph identifies Employee 1. There are no findings that Employee 1 committed any violations. Therefore, the Commission redacts this paragraph pursuant to its authority per 5 ILCS 430/20-52.]

S.A.F.E. Gates is a company that sells school bus stop arm extension products. The S.A.F.E. Gates stop arm is a horizontal bar, with alternating red and white reflective tape and a red LED light across the length of the bar, designed to attach to the existing, octagonal, stop arms on the sides of school buses. Mr. Thompson's email [redacted]@safegates.net is listed as one of the two email contacts for the company.<sup>3</sup>

American Lawncare of Springfield (ALS) is owned and operated by Mr. Thompson. The business started in the fall of 2015, and the primary service it provides is lawn mowing for residential and business customers.

## III. IDOT POLICIES

The following IDOT policies are pertinent to this investigation.

IDOT Personnel Policies Manual Chapter 15: Conflict of Interest, Section 15-3: Guidelines, states: "A conflict of interest occurs when an employee's private interest, usually of personal, financial or beneficial nature, conflicts with public duties or responsibilities. Such a conflict exists when an employee . . . shares an investment, partnership, employment, other relationship or interest which might interfere or appears to interfere with the employee's ability to exercise independent judgment in the department's best interest. Interests and relationships connected with those persons, businesses, government agencies or other organizations that the

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<sup>1</sup> [Sentence related to unfounded allegations redacted.] Thus, this allegation is **UNFOUNDED**.

<sup>2</sup> For the reasons stated in footnote 1, this allegation is **UNFOUNDED**.

<sup>3</sup> In his OEIG interview, Mr. Thompson acknowledged that this was his S.A.F.E. Gates email address.

department regulates, . . . are of particular concern since they may create a real or apparent conflict of interest.”

IDOT Personnel Policies Manual Chapter 15: Conflict of Interest, Section 15-4: Outside Employment, states: “An employee may not use any department equipment or supplies in any outside employment, nor conduct outside employment on department premises or during department work hours.”

IDOT Personnel Policies Manual Chapter 10: Employee Conduct, Section 10-3.T.2.a: State Property, states: “Employees shall not use or consume state property . . . for personal or private purposes. State property is to be utilized only for conducting official state business.”

IDOT Departmental Order 8-2(4.D.2): Information Technology Recourses Usage Code (Email), which states: “The use of department e-mail is limited to official business. Other use of Department e-mail will be considered reasonable if: it does not adversely affect the performance of official duties by the employee . . . and; it is of reasonable duration and frequency.”

#### **IV. INVESTIGATION**

The OEIG investigated both Mr. Thompson and [Employee 1’s] involvement with S.A.F.E. Gates and Mr. Thompson’s work with ALS to determine if there was any conflict of interest or any abuse of State time or resources. As part of the investigation, the OEIG reviewed personnel files,<sup>4</sup> Mr. Thompson’s State email account and computer, conducted surveillance, and interviewed several IDOT employees, including IDOT Ethics Officer Bruce Harmening, Mr. Thompson and [Employee 1].

##### **A. Review of Daniel Thompson’s State Computer**

The OEIG obtained a copy of Mr. Thompson’s State of Illinois P: Drive generated on October 16, 2016 by the Illinois Department of Innovation and Technology (DoIT). Pursuant to OEIG request, DoIT made a copy of the contents of Mr. Thompson’s State network drive. The content of the drive was not altered in any way in that process, and the OEIG received a copy of the drive, not the original.<sup>5</sup> A review of the files captured on that date revealed the presence of three documents that were related to S.A.F.E. Gates and 16 that were related to ALS. The document properties for all these documents showed them to have been accessed by a State computer with user “Daniel F. Thompson” signed in. The S.A.F.E. Gates documents included:

- two draft marketing documents introducing S.A.F.E. Gates; and

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<sup>4</sup>A review of Mr. Thompson’s personnel file revealed an approved secondary employment for ALS, but not for S.A.F.E. Gates. Mr. Thompson also filed Statements of Economic Interest for 2014 through 2016, listing ALS on the 2016 form. S.A.F.E. Gates was not listed on any of the forms.

<sup>5</sup> Pursuant to an MOU between the Office of the Governor and the OEIG, every time the OEIG requests a copy of the contents of a State network drive, the relevant agency’s (in this case IDOT) legal staff compiles a list of search terms and submits them to the OEIG with the copy of the drive for a privilege review. Prior to turning over the copy of the drive to investigative staff, OEIG Information Technology staff run searches of the drive using the search terms provided by the agency and lock any privileged files, excluding them from review by investigative staff.

- one document listing the names and email addresses of people in positions within the school bus transportation industry throughout the United States (hereinafter referred to as “contact list spreadsheet”).

The 16 ALS documents included:

- 2 draft invoices;
- 9 invoices for various lawn care services provided by ALS;
- 1 draft invoice tracking document;
- 2 weekly lawn care service schedules depicting the order in which customers would be provided service;
- 1 advertising flyer; and
- 1 business purchase agreement.

## **B. Review of Daniel Thompson’s State Email Account**

The OEIG reviewed the contents of Mr. Thompson’s State email account from January 1, 2014, to June 24, 2016. The review revealed that during a seven-month period, from October 30, 2014, to May 16, 2016, there were 12 emails, including several chains and attachments, related to S.A.F.E. Gates. In nine of those emails, Mr. Thompson either directly discussed S.A.F.E. Gates, or sent documents related to S.A.F.E. Gates from his State email account to his personal email. Two of the remaining three were work-related emails in which S.A.F.E. Gates was referenced, and the third discussed S.A.F.E. Gates, but was sent by another IDOT employee to Mr. Thompson, who did not respond.<sup>6</sup>

One of these 12 emails in his State email account included an email chain that had originally been sent on February 28, 2016 (hereinafter referred to as “February 28, 2016 email”). That email went to 19 recipients in the school bus industry around the country. The email is an advertisement styled as a “breaking news” release, introducing S.A.F.E. Gates, and including links to S.A.F.E. Gates’ website, where you can purchase the product, and a YouTube video about S.A.F.E. Gates. The email is signed by “[Individual 1]” and includes a phone number and S.A.F.E. Gates email address for [Individual 1], but was sent from the email address [email address redacted], which, as noted below, Mr. Thompson confirmed was his personal email address. Investigators verified that seven of those recipients were members of the Illinois school bus industry.

The review also revealed that during an approximate seven-month period, from September 2, 2014, to April 25, 2016, there were 15 emails, including several chains and attachments, related to ALS. Of those, eight were sent from Mr. Thompson’s State account to his personal account, with documents attached. Five emails were sent from Mr. Thompson’s personal account to his State account, with ALS documents attached or forwarded emails related to ALS. The two remaining emails were between Mr. Thompson and IDOT coworkers, discussing ALS.

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<sup>6</sup> None of these emails were sent to [Employee 1]; nor did any of them mention [Employee 1].

### **C. S.A.F.E. Gates Website and Sales Records**

The OEIG located and reviewed S.A.F.E. Gates' website at [www.safegates.net](http://www.safegates.net). The website contained information about S.A.F.E. Gates products, as well as a link to purchase S.A.F.E. Gates products online. The website also contained contact information, listing an email address for Mr. Thompson, [redacted]@safegates.net, and a phone number for him, (217) 414-[redacted].

There were images on the website of the S.A.F.E. Gates stop arm, including a picture of a school bus with a S.A.F.E. Gates stop arm installed on a school bus and extended, and another one of the S.A.F.E. Gates stop arm installed with the name of the bus company partially covered in tape.

Following the discovery of the option to purchase S.A.F.E. Gates products online, the OEIG issued a subpoena to S.A.F.E. Gates for all documents related to the solicitation of sales, or completed sales, of S.A.F.E. Gates products. S.A.F.E. Gates employee [Individual 1] responded on October 20, 2016 with two invoices for S.A.F.E. Gates stop arms: one that had been shipped to a school district in Nebraska, and one to a school district in Arkansas. In correspondence attached to the invoices, [Individual 1] wrote that those were the only two items that S.A.F.E. Gates had shipped out, and were for field testing purposes, with no money having been exchanged. [Individual 1] also wrote that he only had telephone contact with the two districts.

### **D. Interview of IDOT Ethics Officer Bruce Harmening**

The OEIG interviewed Bruce Harmening, former IDOT Ethics Officer, on May 31, 2016. Mr. Harmening said that he first learned of Mr. Thompson's involvement with S.A.F.E. Gates on January 26, 2016, when IDOT [Employee 2] forwarded him an email from Mr. Thompson. In the email, Mr. Thompson asked [Employee 2] about any potential conflict of interest implications with his work on S.A.F.E. Gates. Specifically, Mr. Thompson wrote, in part, the following:

"I am now in the process of getting patents, along with having Trade Marks and Copy Rights for my product. I am planning on meeting with high ranking officials in the very near future to demonstrate and ask that this product be mandatory on ALL school buses throughout the country. I do not believe this is a conflict of interest if I do not incorporate this in Illinois, but allow the Feds to determine that for me. . . . I believe this product will be approved with open arms by the Feds, but if not, I would still like to sell to other states (other than Illinois), and so I'm asking is this a possibility?"

Mr. Harmening said that he responded to Mr. Thompson and [Employee 2] by email, dated January 29, 2016. In the email, Mr. Harmening told Mr. Thompson that there were several possible ethical concerns, including a potential conflict of interest, given Mr. Thompson's authority to regulate school buses. Mr. Harmening advised Mr. Thompson that if he were to become successful in

receiving a patent and beginning to sell S.A.F.E. Gates, that he should then revisit the ethical issues with Mr. Harmening to ensure compliance with State and IDOT rules.<sup>7</sup>

During his interview, Mr. Harmening said that his understanding at the time of the email was that S.A.F.E. Gates was still very much a preliminary idea, rather than a fully formed company ready to produce and sell products. Mr. Harmening emphasized the fact that he told Mr. Thompson in his email response that he should revisit the potential ethical issues if S.A.F.E. Gates was successfully patented and legislation was passed requiring S.A.F.E. Gates-type devices on school buses nation-wide.

Mr. Harmening also said that he informed Mr. Thompson that he should take “extreme caution” not to use his position at IDOT to advocate for his invention. Mr. Harmening denied advising Mr. Thompson that he could sell S.A.F.E. Gates if it was outside of Illinois. Mr. Harmening explained that this was because he was concerned about the potential for ethical violations stemming from Mr. Thompson’s concurrent employment at IDOT. Mr. Harmening said that he did not have any conversations regarding S.A.F.E. Gates with Mr. Thompson after the initial email.

Investigators then showed Mr. Harmening the February 28, 2016 email, from Mr. Thompson’s private email address, [email address redacted], to 19 recipients, 7 of whom had email addresses indicating that they worked for entities in the school bus industry in Illinois. Mr. Harmening stated that he viewed Mr. Thompson sending the email as at least an apparent conflict of interest because it was sent to Illinois school bus industry representatives, and Mr. Thompson has the power to regulate buses across the entire State.

#### **E. Surveillance at the 2016 Illinois Association for Pupil Transportation (IAPT) Trade Show**

As part of the February 28, 2016 email chain, there is an email between members of the IAPT contemplating asking S.A.F.E. Gates to occupy a vendor booth at the 2016 IAPT trade show. The trade show is part of IAPT’s annual conference, and consists of vendors exhibiting their school bus transportation related products for conference attendees. Therefore, the OEIG conducted surveillance at the 2016 IAPT trade show on June 15, 2016, in East Peoria, Illinois. Investigators viewed all the vendor booths at the trade show and determined that there was no S.A.F.E. Gates booth present at the trade show, nor did they observe Mr. Thompson at the trade show.

#### **F. Interview of IDOT [Employee 3]**

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<sup>7</sup> Mr. Harmening’s email states, in part, the following: “I have conferred with OCC and OQCR on this and we are aware of nothing Ethics related that would prevent you from pursuing the patent or lobbying for legislation. My advice is that you take extreme caution to not use your position at IDOT for either or even give someone reason to perceive that you have. In addition, my advice is that should you be successful in this endeavor, you revisit the issue related to procurement regulations, conflicts with your position if **you sell the product while still employed**, and revolving door issues. . . . These are complicated issues that are easily avoided but must be addressed. **It just is probably preliminary to do so in detail unless and until after you are successful in the patent and legislation.** We can discuss further if you wish. . . .” (emphasis added).

The OEIG interviewed IDOT [Employee 3] on August 18, 2016. [Employee 3's] workspace is near Mr. Thompson's, and she works directly with Mr. Thompson. [Employee 3's] duties include working with Mr. Thompson's unit by monitoring the changes to regulations related to school buses, and assessing their impact on IDOT's operations.

During her interview, [Employee 3] said that she works with Mr. Thompson when there are questions about whether modifications or additions to school buses will cause issues with regulatory compliance. Regarding Mr. Thompson working on secondary business using State equipment and on State compensated time, [Employee 3] said that she has overheard Mr. Thompson on the phone discussing things that sound related to outside business generally, but was unaware of any specific phone conversations regarding S.A.F.E. Gates or ALS. Further, [Employee 3] could not provide any specific examples of Mr. Thompson working on secondary employment activities using either his State email or State computer.

[Employee 3] said that Mr. Thompson's duties require him to have occasional contact with employees or owners of bus companies when he is in the field taking part in school bus inspections, and that Mr. Thompson has contact with bus dealers when an inspection determines that a brand-new bus fails to meet the construction specifications required by law. She said that Mr. Thompson goes to the field to conduct inspections alongside his staff on week-long trips, but has not heard of Mr. Thompson meeting with Lakeview and Cook-Illinois Corporation management to pitch S.A.F.E. Gates.

#### **G. Interview of Daniel Thompson**

The OEIG interviewed Vehicle Inspection Unit Manager Daniel Thompson on March 1, 2017. Mr. Thompson stated that he has been employed at IDOT for approximately 12 years and currently is the Vehicle Inspection Unit Manager responsible for oversight of all the Certified Safety Test Lanes, 27,000 school buses and charitable vehicles, and compliance with the State of Illinois Vehicle Code, Administrative Rules, and federal regulations. In part, his unit conducts bus inspections and has the authority to impose sanctions on school bus companies.<sup>8</sup> Mr. Thompson stated that his direct supervisor is Bruce Harmening.

Regarding S.A.F.E. Gates, Mr. Thompson stated that he came up with the idea for a stop arm extension approximately five years ago after an "epidemic" of vehicles running stop arms on stopped school buses, and discussed the idea with former IDOT Division of Traffic Safety Deputy Director John Rice three or four months later. Mr. Thompson said that Mr. Rice ran with the idea after that discussion, and told Mr. Thompson that he (Mr. Rice) was working on the development of the idea with a mechanic in the Chicago area named "[redacted]." Mr. Thompson stated that he "never had much to do" with the development of the product until after Mr. Rice's death in May 2015. At that time, [Individual 1], a mechanic at Lakeview, asked Mr. Thompson if he would like to work on S.A.F.E. Gates with him, and Mr. Thompson agreed. Mr. Thompson said that

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<sup>8</sup> Through his staff, Mr. Thompson is capable of imposing several levels of sanctions, depending on the severity of the infraction, including: requiring minor repairs to be performed on the spot, removing a bus from service until a condition is repaired and the bus is re-inspected at an Official Testing Station, requiring a bus to be repaired and re-inspected by a Vehicle Compliance Inspector after three days, or requiring a bus to be repaired and the repair to be reported by mail to Mr. Thompson's office within 30 days.

[Individual 1] had done all the work on the design and prototype of the school bus stop arm. Mr. Thompson believed it was shortly before Thanksgiving of 2015, when he and [Individual 1] had a product ready, and they applied for and received a patent. Mr. Thompson said he believes that the status of the patent is "patent pending."

Mr. Thompson stated that S.A.F.E. Gates has only distributed two products, to bus companies in Nebraska and Arkansas, but that no money was exchanged. Mr. Thompson believed that this may have been done for field testing purposes. Mr. Thompson denied ever marketing the stop arm product and denied using State resources or compensated work time to further the product in any way. Mr. Thompson said that he no longer works on S.A.F.E. Gates at all, and has not done so since approximately June or July of 2016.<sup>9</sup>

## **1. Conflict of Interest**

According to Mr. Thompson, he met with IDOT [Employee 2] on January 25, 2016 in order to see if his involvement with the S.A.F.E. Gates product had ethical implications. Mr. Thompson said that he sent [Employee 2] an email the next day summarizing their conversation and asking for ethics guidance. According to Mr. Thompson, [Employee 2] said that he would reach out to IDOT Ethics Officer Bruce Harmening for guidance, and pass along what he learned. Mr. Thompson said that a few days later he received an email from Mr. Harmening and identified the same email from Mr. Harmening discussed above. Mr. Thompson said that it was his understanding from Mr. Harmening's email response sent on January 29, 2016, that Mr. Thompson was limited to not selling in Illinois or using his influence in Illinois to sell the product elsewhere. Mr. Thompson stated that he did not reach out to Mr. Harmening regarding S.A.F.E. Gates again.

When shown the February 28, 2016 email sent to 19 recipients, including seven Illinois school bus industry representatives, Mr. Thompson confirmed that [email address redacted] is his personal email address, and admitted that he sent the email. Mr. Thompson acknowledged that the email went to Illinois-based recipients but said that he did not purposely send it to Illinois recipients. According to Mr. Thompson, he looked online for addresses connected with industry associations.<sup>10</sup> When asked, Mr. Thompson admitted that sending this email to the Illinois recipients was a violation of the IDOT Conflict of Interest policy.

Mr. Thompson was shown pictures of the S.A.F.E. Gates stop arm from the website. Mr. Thompson said that the buses in the images were at the Lakeview facility, and that Lakeview serves as the project development site. He estimated that he spent three weekends, several vacation days, and one State holiday working on S.A.F.E. Gates at Lakeview. Mr. Thompson acknowledged that his unit has oversight over Lakeview school buses but said that he does not see a conflict of interest in using an IDOT monitored facility to conduct his S.A.F.E. Gates business. According to Mr. Thompson, neither he, nor anyone else at IDOT, gave Lakeview any special

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<sup>9</sup> Regarding his lawn care business, Mr. Thompson said that he started American Lawncare of Springfield (ALS) in fall of 2015, and that the primary service it provides is lawn mowing for residential and business customers.

<sup>10</sup> The email went to the Executive Director, President, Vice President, Secretary, Treasurer, and Southern Regional Director of the Illinois Association for Pupil Transportation (IAPT). Some of the email addresses included the following domains: @isbe.net, @ilapt.net, @winnebagoschools.org, @homerschools.org, @peotoneschools.org.



treatment or conducted inspections differently based on the facility being the development site for S.A.F.E. Gates.

## **2. Use of State Resources for Outside Employment**

The three documents related to S.A.F.E. Gates found on Mr. Thompson's P: Drive included the contact list spreadsheet and two draft marketing documents. One of the marketing documents takes the form of an informational letter to school bus industry representatives (hereinafter advertising letter), containing statistics regarding stop arm violations and information about how S.A.F.E. Gates will solve that problem. The second is a paragraph styled as a news release (hereinafter video announcement) touting an informational video about S.A.F.E. Gates. Mr. Thompson acknowledged that all three documents were related to S.A.F.E. Gates, although he later said that he did not know if they were created for S.A.F.E. Gates purposes. He admitted that the advertising letter violated IDOT's Conflict of Interest Policy, but would not say whether he believed the contact list spreadsheet did so because he could not recall whether it was created for S.A.F.E. Gates, even though when first shown the document, Mr. Thompson stated that it "very well could've been" created for S.A.F.E. Gates purposes. Mr. Thompson would not say whether the video announcement violated the Conflict of Interest policy because he could not recall creating it using his State computer.

Mr. Thompson was then informed that there were actually 16 documents related to ALS found on his P: Drive, and that all of the documents' properties reflected that they had been accessed on a State computer by user "Daniel F. Thompson." Upon being shown each of the documents, Mr. Thompson acknowledged that they were related to ALS, and had been accessed using his State computer. However, Mr. Thompson claimed that he could only recall working on the two lawn care service schedules, the invoice tracking document, the nine invoices, and the two draft invoice documents using his State computer. Further, he claimed that he could not recall if he worked on the invoices and the draft invoice documents during State compensated time, or during a break or lunch period. He also stated that he believed that working on the documents amounted to reasonable use.

Mr. Thompson was then shown the 12 emails in which he either discussed S.A.F.E. Gates using his State account or sent information related to S.A.F.E. Gates from his State account to his private account. He confirmed that his State email address is dan.f.thompson@Illinois.gov. He acknowledged that nine of the emails were at least possibly related to S.A.F.E. Gates, but stated that he considered nine emails over a period of two and a half years to be a reasonable amount of non-official use.

Following the S.A.F.E. Gates emails, Mr. Thompson was shown the 15 emails that appear to be related to ALS. Mr. Thompson admitted that 14 of them were related to his work for ALS, but stated that one, dated September 2, 2014, including an attachment of a spreadsheet of names of businesses and contacts at those businesses, titled "UIS LOCATION.docx," was actually related to his son's baseball team. Mr. Thompson stated that he believed the addition of these 15 non-work related emails over a 20-month period to his S.A.F.E. Gates related emails was still a reasonable amount of use within the definition of IDOT Departmental Order 8-2.

### **3. Conducting Outside Business on Compensated Time**

After being confronted with his use of State email and State computing resources for S.A.F.E. Gates and ALS, Mr. Thompson said that to his knowledge, he did not recall working on any S.A.F.E. Gates or ALS materials on compensated time, and insisted that any work that took place during State compensated time was unintentional. Mr. Thompson also stated that in his experience, it is very common for IDOT employees to use their State email and State computers for personal reasons, and that he felt it was unfair to single him out for such a common practice.

Mr. Thompson said that he and [Individual 1] worked on S.A.F.E. Gates at Lakeview's garage. He said that he used weekends and vacation days for the work, and used his personal vehicle to drive there on those days. He did not recall exactly how many days he spent working on S.A.F.E. Gates, but estimated that he went to Lakeview on three Saturdays and Sundays, a few vacation days, and one State holiday for S.A.F.E. Gates work. Mr. Thompson could not recall the dates that he was at Lakeview doing S.A.F.E. Gates work, but stated that he never worked on S.A.F.E. Gates when he was at Lakeview for IDOT business. Mr. Thompson denied ever meeting with representatives of Illinois bus companies, including Lakeview and Cook-Illinois Corporation, to market S.A.F.E. Gates, either on State time or his own time.

Investigators also asked Mr. Thompson about [Employee 1's] alleged involvement with S.A.F.E. Gates. Mr. Thompson said that he recalled speaking to [Employee 1] once about S.A.F.E. Gates, shortly after Mr. Rice died. Aside from that, Mr. Thompson said that [Employee 1] has never had any involvement with S.A.F.E. Gates, and that neither Mr. Rice nor [Individual 1] ever mentioned [Employee 1] having any involvement with S.A.F.E. Gates prior to Mr. Thompson's involvement.

#### **H. Interview of IDOT [Employee 1]**

The OEIG interviewed IDOT [Employee 1] on February 15, 2017. [Two sentences redacted that identify Employee 1].

Regarding S.A.F.E. Gates' creation, [Employee 1] said that he believed that John Rice, the former Division of Traffic Safety Deputy Director, came up with the idea for the product. [Employee 1] said that he and Mr. Rice had been good friends for decades, and that they would talk about many topics, including Mr. Rice's concern with stop arm illumination in bad weather conditions, and his resultant desire to create a more brightly illuminated stop arm. [Employee 1] had limited knowledge of Mr. Rice's involvement in the design and creation of the physical S.A.F.E. Gates product.

[Employee 1] said that he did not know when Mr. Thompson became involved with S.A.F.E. Gates, but that he believed it was before Mr. Rice died. He did not know how many other people were involved with S.A.F.E. Gates, or how the product went from being an idea of Mr. Rice's to a physical product worked on by Mr. Thompson. He also said that he does not speak to Mr. Thompson regularly or in depth about S.A.F.E. Gates, and that he thought they had discussed it less than five times in total.

[Employee 1] said that Lakeview is one of the companies whose buses he inspects, and that he reports there approximately every three to four months for regular inspections, as well as every time a Lakeview bus is involved in an accident. [Employee 1] denied any knowledge of Lakeview's garage being used as the development site for S.A.F.E. Gates. [Employee 1] also denied any knowledge of S.A.F.E. Gates being marketed to companies in Illinois, including Lakeview and Cook-Illinois Corporation. Finally, he said that he had never been present for or heard of Mr. Thompson giving a sales pitch for S.A.F.E. Gates.

[Employee 1] denied any involvement with S.A.F.E. Gates. According to [Employee 1], Mr. Rice never asked him to get involved with S.A.F.E. Gates, and since he took over, Mr. Thompson has not done so either. [Employee 1] denied ever going to Lakeview to monitor S.A.F.E. Gates, or going to Lakeview or Cook-Illinois Corporation to pitch S.A.F.E. Gates.

## **V. ANALYSIS**

### **A. Allegations Regarding Daniel Thompson's Conflict Of Interest Based On His Outside Employment**

IDOT's Conflict of Interest policies describe the responsibilities of IDOT employees, including avoiding any real or apparent conflict of interest, and point out that having interests and relationships with businesses that the employee regulates is of particular concern. Specifically, IDOT Personnel Policies Manual, Chapter 15: Conflict of Interest, Section 15-3: Guidelines states: "A conflict of interest occurs when an employee's private interest, usually of a personal, financial, or beneficial nature, conflicts with public duties or responsibilities. Such a conflict exists when an employee . . . shares an . . . interest which might interfere or appears to interfere with the employee's ability to exercise independent judgment in the department's best interest. Interests and relationships connected with those persons, businesses . . . or other organizations that the department regulates . . . are of particular concern since they may create a real or apparent conflict of interest."

The IDOT Conflict of Interest policy also specifically states that if an employee is going to engage in outside employment, that no state resources be used for such outside employment. Mr. Thompson violated both of these provisions through his work with S.A.F.E. Gates and ALS.

#### **1. Apparent Conflict of Interest Caused by Daniel Thompson's Work with S.A.F.E. Gates**

As IDOT's Vehicle Inspection Unit Manager, Mr. Thompson is directly responsible for ensuring that his staff carries out proper inspections of school buses at all school bus lots throughout the State, including Lakeview, and takes proper corrective action when buses are found to be deficient, which could include sanctions against the bus company. Mr. Thompson may make these decisions personally or supervise the employees conducting the inspections. He also has the authority to make judgements regarding whether modifications requested by school bus owners are acceptable under federal and State guidelines. In sum, Mr. Thompson has considerable regulatory authority over school bus companies in Illinois, including Lakeview.

Even though he has regulatory authority over Lakeview, Mr. Thompson conducted his personal S.A.F.E. Gates business at Lakeview's location. Mr. Thompson admitted that [Individual 1] works as a mechanic there, and that they used Lakeview's garage as the development site for the S.A.F.E. Gates products. He also admitted that they used Lakeview buses to fit the product on to show a patent attorney, and to take photographs for the S.A.F.E. Gates website. Although he could not recall how often he was at Lakeview to work on S.A.F.E. Gates, Mr. Thompson said that he had been to Lakeview on weekends and vacation days to work on the project. Mr. Thompson denied he, or anyone else at IDOT, gave Lakeview any special treatment or conducted inspections differently based on the facility being the development site for S.A.F.E. Gates. Mr. Thompson, however, did receive "an item of economic value" from Lakeview. He was able to use their facility to further his personal endeavor. This certainly gives the appearance that it could interfere with Mr. Thompson's ability to exercise independent judgment when regulating Lakeview.

Mr. Thompson stated that in January 2016, he approached IDOT's "Ethics people" to inform them of his product and to see if his involvement was unethical. However, in his email recapping his conversation with [Employee 2], Mr. Thompson did not say that he was using Lakeview's facility, nor did he include the fact that he had a product that was ready to sell. IDOT Ethics Officer Bruce Harmening stated that he believed that S.A.F.E. Gates was no more than an idea, and certainly was not at the advanced stage of development in which the product physically existed and was ready for marketing and sales. Mr. Harmening's email response to Mr. Thompson makes it clear that Mr. Harmening believed the product was at a preliminary stage, stating "we are aware of nothing ethics related that would prevent you from pursuing the patent or lobbying for legislation. . . . [M]y advice is that should you be successful in this endeavor, you **revisit** the issue related to procurement regulations, conflicts with your position **if you sell the product while still employed**, and revolving door issues." Mr. Thompson did not seek any further advice from Mr. Harmening, nor provide him with more details, even though Mr. Harmening was his direct supervisor.

Rather, Mr. Thompson sent an email about a month later, on February 28, 2016, in which at least 7 of the 19 recipients were members of the Illinois school bus industry, advertising S.A.F.E. Gates and including a link to the S.A.F.E. Gates website, where potential customers could learn more about the products and place orders for them. Although Mr. Thompson said he did not purposely choose Illinois-based recipients of the email, the email domains were recognizable as Illinois addresses, and he could not explain why he chose any of the recipients. Mr. Thompson agreed that sending this email was a violation of the Conflicts of Interest policy.

By taking the active role he did in writing and sending the email to representatives of Illinois school districts, Mr. Thompson created a situation which could have resulted in bus companies, that he regulates, purchasing his products because of his marketing S.A.F.E. Gates to Illinois school districts. Although the investigation did not uncover any evidence that S.A.F.E. Gates sold the product in Illinois, sending this email shows, at the very least, a casual disregard for the potential conflict of interest of Mr. Thompson's involvement with S.A.F.E. Gates. For these reasons, the OEIG concludes that Mr. Thompson's involvement with S.A.F.E. Gates, particularly his use of Lakeview's garage and sending emails to representatives from Illinois school districts

marketing his product, was at least an apparent conflict of interest, and this allegation is **FOUNDED**.<sup>11</sup>

## **2. Outside Employment's Interference With Job Duties**

Mr. Thompson used his State computer and the software installed on it to create and edit documents for both S.A.F.E. Gates and ALS. Those documents included 3 related to S.A.F.E. Gates and 16 related to ALS. While Mr. Thompson told investigators that he could not recall whether the list of people in the school bus transportation industry nationwide was created for S.A.F.E. Gates purposes, it is unlikely that such a document would have been relevant to his work as the IDOT Vehicle Inspection Unit Manager. Mr. Thompson's duties include managing the school bus inspections within the State of Illinois, and he never mentioned a duty that required him to have contact with personnel involved in school bus transportation in other states. Furthermore, after creating that list, Mr. Thompson sent it from his State email account to his personal one, indicating that he intended to use the list outside of his work environment.

While he admitted to creating or working on some of the documents using his State computer, Mr. Thompson also claimed that he could not recall creating or working on several of them using his State computer. Regarding the creation of the documents using his State computer, Mr. Thompson was informed that the document properties for each document indicated that all of them were created using the State-licensed software on his computer, by "Daniel F. Thompson." He did not dispute that the properties show that the documents had in fact been created on his State computer. While it may be plausible that he forgot creating the documents on his State computer, all of them were in fact created with the use of State-licensed software, on his State computer.

Finally, Mr. Thompson claimed that any work he might have done on the documents could have occurred during breaks and lunches rather than during working time, and that his use of his State computer to create the documents constituted reasonable personal use. Unfortunately for Mr. Thompson, IDOT's Conflict of Interest policy<sup>12</sup> and its Employee Conduct policy<sup>13</sup> do not contain exemptions for using state resources on outside employment activities during breaks or lunch, or in reasonable amounts. Therefore, this allegation is **FOUNDED**.

### **B. Daniel Thompson's Use of State Email for Secondary Employment Activities**

Mr. Thompson used his State email account for S.A.F.E. Gates and ALS purposes, sending 9 related to S.A.F.E. Gates and 15 related to ALS. Mr. Thompson admitted that the 9 S.A.F.E. Gates emails were related to S.A.F.E. Gates, and that 14 of the 15 ALS emails were related to

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<sup>11</sup> The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

<sup>12</sup> IDOT Personnel Policies Manual Chapter 15: Conflict of Interest, Section 15-4: Outside Employment, states: "An employee may not use any department equipment or supplies in any outside employment, nor conduct outside employment on department premises or during department work hours." (emphasis added)

<sup>13</sup> IDOT Personnel Policies Manual Chapter 10: Employee Conduct Section 10-3.T.2.a: State Property, states: "Employees shall not use or consume state property ... for personal or private purposes. State property is to be utilized only for conducting official state business."

ALS, but claimed that the last one was related to his son's baseball team at the University of Illinois-Springfield. He claimed that 24 personal emails over a period of approximately 2.5 years was a reasonable amount of personal use within IDOT Departmental Order 8-2(4.D.2). At an average of less than one personal email per month, the OEIG agrees that Mr. Thompson's level of personal use of his email for S.A.F.E. Gates and ALS was reasonable, because it was unlikely to have adversely affected his job performance, and this allegation is **UNFOUNDED**.

### C. [Employee 1's] Alleged S.A.F.E. Gates Activities

The investigation into [Employee 1's] alleged involvement with S.A.F.E. Gates uncovered no credible evidence that [Employee 1] played any role in the business. Mr. Thompson, who admitted that some of the actions he took regarding S.A.F.E. Gates were policy violations, unequivocally stated that [Employee 1] played no role in the company, and his advertising email to school bus industry personnel states that just two partners are involved in the company, [Individual 1] and Mr. Thompson. None of Mr. Thompson's emails regarding S.A.F.E. Gates were sent to, referenced, or included [Employee 1]. Finally, S.A.F.E. Gates's website lists two points of contact only, [Individual 1] and Mr. Thompson. Because the OEIG could find no information suggesting that [Employee 1] ever played a role in S.A.F.E. Gates, the allegations that he frequently checked up on its progress at Lakeview and went to marketing pitches with Mr. Thompson at Lakeview and Cook-Illinois Corporation are **UNFOUNDED**.

## VI. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS**:

- **FOUNDED** – Daniel Thompson outside work with S.A.F.E. Gates was an apparent conflict of interest in violation of IDOT's Conflict of Interest Policy.
- **FOUNDED** – Daniel Thompson violated IDOT's Outside Employment policy by using State computing resources for S.A.F.E. Gates and for his lawn care business, American Lawncare of Springfield.
- **UNFOUNDED** – Daniel Thompson violated IDOT's email use policy by using his State email for personal reasons involving S.A.F.E. Gates and American Lawncare of Springfield.
- **UNFOUNDED** – [Redacted]

The OEIG recommends that IDOT take whatever action it deems necessary with regard to Mr. Thompson.

No further investigation is required and this matter is closed.

Date: **November 8, 2017**

Office of Executive Inspector General  
for the Agencies of the Illinois Governor  
607 East Adams, 14<sup>th</sup> Floor  
Springfield, IL 62701

**Edward Mroczkowski**  
Assistant Inspector General #160

**Melissa Brandenburg**  
Investigator #160



**Office of Executive Inspector General**  
for the Agencies of the Illinois Governor  
www.inspectorgeneral.illinois.gov

**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY  
RESPONSE FORM**

Case Number: 16-00712

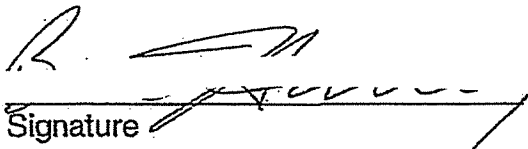
Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

☒ We will implement some or all of the OEIG recommendations but will require additional time to do so.  
We will report to OEIG within 30 days from the original return date.

☐ We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

  
Signature

Bruce Harmening

Print Name

IDOT, Investigations and Compliance Bureau Chief

Print Agency and Job Title

November 29, 2017

Date





# Illinois Department of Transportation

Office of Finance and Administration / Bureau of Investigations and Compliance  
2300 South Dirksen Parkway / Springfield, Illinois 62764

CONFIDENTIAL

December 27, 2017

Ms. Margaret A. Hickey  
Illinois Executive Inspector General  
Office of Executive Inspector General  
69 West Washington Street, Suite 3400  
Chicago, Illinois 60602

**Re: OEIG Case No. 16-00712**

Dear Ms. Hickey:

This letter is a request for an extension regarding OEIG Final Report, case number 16-00712, which contains FOUNDED allegations that IDOT employee Daniel Thompson engaged in an outside business that constituted a conflict of interest with his IDOT duties. The OEIG Final Report was dated November 8, 2017, and IDOT's response to the report regarding the action taken was initially due on November 29, 2017.

On November 29, 2017, IDOT's Bureau of Investigations and Compliance (BIC) requested a thirty (30) day extension to allow IDOT an opportunity to implement your office's recommendations. Currently, the disciplinary process is still ongoing and BIC anticipates that the process will be completed within the next thirty (30) days. Therefore, BIC respectfully requests an additional thirty (30) day extension, until January 26, 2018, to inform your office of the outcome of the disciplinary process and the action taken.

Thank you for your assistance concerning this matter. If you have any questions, or if I can be of assistance to you or your staff, please do not hesitate to contact me at 217-558-4617.

Respectfully,

A handwritten signature in dark ink, appearing to read 'B. Harmening'.

Bruce Harmening  
Bureau Chief



# Illinois Department of Transportation

Office of Finance and Administration / Bureau of Investigations and Compliance  
2300 South Dirksen Parkway / Springfield, Illinois 62764

CONFIDENTIAL

January 10, 2018

Ms. Margaret A. Hickey  
Illinois Executive Inspector General  
Office of Executive Inspector General  
69 West Washington Street, Suite 3400  
Chicago, Illinois 60602

**Re: OEIG Case No. 16-00712**

Dear Ms. Hickey:

This letter is the Illinois Department of Transportation's (IDOT) response to the OEIG Final Report, case number 16-00712, which contains FOUNDED allegations that IDOT employee Daniel Thompson engaged in an outside business that constituted a conflict of interest with his IDOT duties.

Based on the Final Report issued by the OEIG, and the evidence contained therein, Mr. Thompson was discharged from his employment with IDOT on January 10, 2018, effective close of business on January 15, 2018.

Thank you for your assistance concerning this matter. If you have any questions, or if I can be of assistance to you or your staff, please do not hesitate to contact me at 217-558-4617.

Respectfully,

A handwritten signature in black ink, appearing to read 'B. Harmening'.

Bruce Harmening  
Bureau Chief